Agreement

between His Majesty's Government in the United Kingdom and the Government of India

Supplementary to the Ottawa Trade Agreement

of August 20, 1932

[With Exchange of Letters]

London, January 9, 1935

Presented by the President of the Board of Trade to Parliament by Command of His Majesty
January 1935

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Agreement between His Majesty's Government in the United Kingdom and the Government of India.

Preamble.

His Majesty's Government in the United Kingdom and the Government of India hereby agree that, during the continuance of the Ottawa Trade Agreement, the following undertakings on the part of His Majesty's Government in the United Kingdom and of the Government of India shall be deemed to be supplementary to that Agreement, namely :—

Article 1.

It is recognised by His Majesty's Government in the United Kingdom and the Government of India that while protection to an Indian industry against imports of whatever origin may be necessary in the interests of the economic well-being of India, the conditions within industries in India, in the United Kingdom and in foreign countries may be such that an Indian industry requires a higher level of protection against foreign goods than against imports of United Kingdom origin.

Article 2.

It is recognised by His Majesty's Government in the United Kingdom that, under existing conditions, import duties constitute an indispensable element in the revenues of the Government of India, and that revenue considerations must be given due weight in fixing levels of import duties.

Article 3.

1. The Government of India undertake that protection will be afforded to such industries only as after due enquiries by the Tariff Board have, in the opinion of the Government of India, established claims thereto in accordance with the policy of discriminating protection laid down in the resolution adopted by the Legislative Assembly on 16th February 1923, provided that this undertaking shall not apply to safeguarding of industries under the Safeguarding Act of 1933.

2. The Government of India further undertake that the measure of protection to be afforded shall be only so much as, and no more than, will equate prices of imported goods to fair selling prices for similar goods produced in India, and that, wherever possible having regard to the provisions of this Article, lower rates of duty will be imposed on goods of United Kingdom origin.

3. The differential margins of duty established in accordance with the principles laid down in the preceding clauses of this Article as between United Kingdom goods on the one hand and foreign goods on the other, shall not be altered to the detriment of United Kingdom goods.

4. The undertakings contained in this Article shall not prejudice the right of the Government of India in cases in which they find it essential, in the interests of the revenue, to impose an over-riding revenue duty on imported goods higher than the protective duty required.

Article 4.

When the question of the grant of substantive protection to an Indian industry is referred for enquiry to a Tariff Board the Government of India will afford full opportunity to any industry concerned in the United Kingdom to state its case and to answer the cases presented by the other interested parties. The Government of India further undertake that, in the event of any radical changes in the conditions affecting protected industries during the currency of the period of protection, they will, on the request of His Majesty's Government or of their own motion, cause an enquiry to be made as to the appropriateness of the existing duties from the point of view of the principles laid down in Article 3, and that, in the course of such enquiry, full consideration will be given to any representations which may be put forward by any interested industry in the United Kingdom.

Article 5.

His Majesty's Government in the United Kingdom will give consideration to the steps that might be taken in co-operation with the respective commercial interests to develop the import from India of raw or semi-manufactured materials used in the manufacture of articles of a class which, on importation into India, are subject to differential protective duties. In particular they invite the Government of India to take note of the steps that have already been taken in the United Kingdom in pursuance of Article 8 of the Ottawa Agreement with a view to the widening of the area of consumption of Indian cotton; and they undertake to continue to use all possible efforts in co-operation with commercial interests to stimulate the consumption of Indian cotton in all possible ways, including technical research, commercial investigation, market liaison, and industrial propaganda.

Article 6.

His Majesty's Government in the United Kingdom undertake that, in accordance with the principles of the foregoing Article, the privilege of duty-free entry of Indian pig iron into the United

Kingdom will be continued so long as the duties applicable to articles of iron and steel imported into India are not less favourable to the United Kingdom than those provided for in the Iron and Steel Protection Act, 1934, without prejudice, however, to the provisions of subsections 3 (4) and 3 (5) of the Indian Tariff Act, 1894, as amended by section 2 of the Iron and Steel Duties Act, 1934.

Article 7.

His Majesty's Government in the United Kingdom and the Government of India undertake that, in all matters relating to this Agreement, they shall at all times receive and consider any conclusions, agreements or reports which may be framed as the result of conferences between the accredited representatives of industries concerned in the United Kingdom and in India.

Signed on behalf of His Majesty's Government in the United Kingdom.

WALTER RUNCIMAN.

Signed on behalf of the Government of India.

B. N. MITRA.

9th January 1935.

No. 1.

LONDON,
9TH JANUARY 1935.

Sir,

I am authorised to undertake on behalf of His Majesty's Government in the United Kingdom that if at any time any further or other special steps are taken by the Colonies and Protectorates to facilitate the sale of United Kingdom cotton goods in competition with foreign cotton goods, they will invite the Governments of the Colonies and Protectorates to accord as favourable treatment to Indian cotton goods of any description as may be proposed for similar United Kingdom cotton goods.

The above undertaking shall remain in force so long as the Agreement of 28th October 1933, between the Lancashire Delegation and the Millowners' Association, Bombay, or any subsequent Agreement which may be concluded between the cotton textile industries of the two countries remains in force.

I have the honour to be,
Sir,
Your obedient Servant,
WALTER RUNCIMAN.

Sir B. N. Mitra, K.C.S.I.,
K.C.I.E., C.B.E.

No. 2.

LONDON,
9TH JANUARY 1935.

Sir,

I have the honour to acknowledge receipt of your letter (No. 1) of to-day's date.

I am authorised to undertake on behalf of the Government of India that as soon as the second surcharge comes off as a general measure, the tariff rates on United Kingdom cotton piece-goods will be reduced to 20 per cent. ad valorem or $3\frac{1}{2}$ annas per pound on plain grey goods, and 20 per cent. ad valorem on other goods, provided that on expiry of the period of the Agreement of 28th October 1933 between the Lancashire Delegation and the Millowners' Association, Bombay, the duties on United Kingdom goods for the remaining period of protection will be fixed on a review of conditions then existing and in the light of such experience as may have been gained. By reference to the second surcharge coming off as a general measure is meant the removal of the surcharge on a reasonably large proportion of, not necessarily all, the items now subject to it.

I have the honour to be,
Sir,
Your obedient Servant,
B. N. MITRA.

Rt. Hon. W. Runciman, M.P.

No. 3.

LONDON,
Sir, 9TH JANUARY 1935.

I have the honour to acknowledge the receipt of your letter (No. 2) of to-day's date.

I have the honour to be,
Sir,
Your obedient Servant,
WALTER RUNCIMAN.

Sir B. N. Mitra, K.C.S.I.,
K.C.I.E., C.B.E.

(10903) Wt. 3149/1884 500 1/35 I.O.P.

STATUTORY RULES AND ORDERS

1936 No. 165.

INDIA

THE GOVERNMENT OF INDIA (CONSTITUTION OF SIND) ORDER, 1936.

At the Court of Buckingham Palace, the 3rd day of March, 1936.

PRESENT,

The King's Most Excellent Majesty in Council.

Whereas it is provided by subsection (1) of section two hundred and eighty-nine of the Government of India Act, 1935 (a) (hereafter in this Order referred to as "the Act"), that, as from such date as His Majesty may by Order in Council appoint, Sind shall be separated from the Presidency of Bombay and shall form a Governor's Province to be known as the Province of Sind:

And whereas by subsection (2) of the said section His Majesty is empowered by Order in Council to make other provision in connection with the establishment of the Province of Sind:

And whereas a draft of this Order has been laid before Parliament in accordance with the provisions of subsection (1) of section three hundred and nine of the Act, and an Address has been presented to His Majesty by both Houses of Parliament praying that an Order may be made in the terms of this Order:

Now, therefore, His Majesty, in the exercise of the said powers and of all other powers enabling him in that behalf, is pleased by and with the advice of His Privy Council to order, and it is hereby ordered, as follows:—

PART I.

INTRODUCTORY.

1. This Order may be cited as "The Government of India (Constitution of Sind) Order, 1936."

2. The Interpretation Act, 1889, (b) applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

PART II.

DEFINITION OF SIND AND DATE OF SEPARATION.

3. In the Act and in this Order "Sind" means the territory known at the date of this Order as the Division of Sind, and the boundaries of that Division shall be the boundaries of Sind.

(a) 26 Geo. 5 & 1 Edw. 8. c. 2. (b) 52 & 53 Vict. c. 63.

4.—(1) The date on which, under subsection (1) of section two hundred and eighty-nine of the Act, Sind is to be separated from the Presidency of Bombay and form a Governor's Province shall be the first day of April, nineteen hundred and thirty-six.

(2) The said date is hereafter in this Order referred to as "the appointed day," and the period beginning on the appointed day and ending immediately before the commencement of Part III of the Act is hereafter in this Order referred to as "the transitional period."

PART III.

Provisions with Respect to the Transitional Period.

Duration.

5. The provisions of this Part of this Order shall have effect with respect to the transitional period.

Administration.

6. Save as provided by this Order, the Government of India Act and any Rules made thereunder shall apply in relation to Sind as they apply in relation to other Governors' Provinces.

7. The Governor shall be appointed by His Majesty by warrant under the Royal Sign Manual, after consultation with the Governor-General, and there shall be paid to him an annual salary of sixty-six thousand rupees, and such allowances as the Secretary of State in Council may determine.

8.—(1) Sind shall be governed in relation to all provincial subjects by the Governor, and so much of the Government of India Act and the Rules made thereunder as relates to the classification of provincial subjects as reserved and transferred shall not apply to Sind.

(2) The Governor shall have no executive council and any reference in Part IV of the Devolution Rules to the Governor in Council shall be construed as a reference to the Governor.

(3) The Governor shall be deemed for all purposes to be the local government of Sind.

9.—(1) There shall be an advisory council consisting of not more than twenty-five members to be nominated by the Governor and of those persons not more than three shall be officials.

(2) The council may advise on all such matters as the Governor may refer to them.

(3) The business of the council shall be conducted by the council or its committees in such manner, and the council and its committees shall be presided over by such persons, as the Governor may direct.

(4) There shall be paid to the members of the council such allowances as the Governor-General in Council may determine.

(5) So much of the Government of India Act and the Rules made thereunder as relates to legislative councils shall not apply to Sind.

10.—(1) The Governor may, if he thinks fit, appoint one or more members of the advisory council to assist him in such manner as he thinks fit, and there shall be paid to any person so appointed such salary and allowances as may be fixed by the Governor-General in Council.

(2) Any such appointment shall be terminable at the pleasure of the Governor.

Legislation.

11. The provisions of section seventy-one of the Government of India Act (except subsection (4) thereof) shall apply to the whole of Sind and regulations may be made thereunder accordingly.

Finance.

12.—(1) The Governor shall, before or as soon as may be after the beginning of each financial year falling wholly or partly within the transitional period, cause a statement of the estimated annual receipts and expenditure of Sind for that year together with proposals for appropriation of the revenues of Sind to be laid before the advisory council for general discussion, but no item shall be submitted to the vote of the council; and after the discussion the Governor shall authenticate under appropriate heads the amounts of the appropriations, and thereupon expenditure may be undertaken accordingly.

(2) During any period in any financial year preceding the authentication aforesaid expenditure for that year may be undertaken in respect of such matters and within such limits as the Governor may from time to time by written order determine.

13. If in any financial year further expenditure from the revenues of Sind becomes necessary over and above the expenditure authorised under the last preceding paragraph for that year, the Governor shall cause a supplementary statement showing the estimated amount of that expenditure to be laid before the advisory council, and the provisions of that paragraph shall apply with any necessary modifications with respect to that statement and that expenditure.

14. Subject to such instructions as the Governor-General in Council may issue, the Governor shall make such arrangements as he deems necessary for the control of expenditure out of the revenues of Sind, and Part III of the Devolution Rules (which relates to finance departments) shall not apply to Sind.

15.—(1) In the table of annual assignments for famine relief set out in paragraph one of Schedule IV to the Devolution Rules, for the entry—

"Bombay ..... 12,00,000"

there shall be substituted the following entry—

"Bombay ..... 10,75,000"

and the following entry shall be added—

"Sind ..... 1,25,000"

(2) In the table of accumulated totals set out in paragraph five of the said Schedule IV, for the entry—

"Bombay ..... 75,00,000"

there shall be substituted the following entry—

"Bombay ..... 63,00,000"

and the following entry shall be added—

"Sind ..... 12,00,000."

16.—(1) There shall be a Revenue Commissioner for Sind who shall discharge such functions as the Governor may, with the previous sanction of the Governor-General in Council, from time to time assign to him, and any provision in force immediately before the appointed day contained in or made under any enactment shall have effect accordingly.

(2) Any revenue appeals pending immediately before the appointed day in relation to any matter in Sind shall be transferred to, and disposed of by, such persons as the Governor may, with the previous sanction of the Governor-General in Council, direct.

Other Matters.

17. The Governor may from time to time by notification in the local official gazette direct what officer (other than the Revenue Commissioner) is to exercise in Sind any functions exercisable by virtue of any provision in force immediately before the appointed day contained in or made under any enactment, and any such provision shall have effect accordingly.

18. The provisions of the First Schedule to this Order shall have effect with respect to the legislative council of Bombay.

PART IV.

MISCELLANEOUS.

19. The Council of State Electoral Rules and the Legislative Assembly Electoral Rules and any Regulations applied thereby shall, until amended by competent authority, continue to have effect as if Sind had not been separated from Bombay:

Provided that anything required by those Rules or Regulations to be done by the Governor, the local government or officials of Bombay shall, either generally or as respects any particular area or any particular matter, be done by such Governor, local government or officials as the Governor-General in Council may direct.

20.—(1) There shall be an apportionment of assets and liabilities between Sind and the Presidency of Bombay, and that apportionment shall be made in accordance with the provisions contained in the Second Schedule to this Order.

(2) Any dispute arising under the said provisions shall be referred to and decided finally by the Secretary of State in Council, or, after the commencement of Part III of the Act, the Secretary of State.

21. For the avoidance of doubt it is hereby declared that all persons serving under the Crown immediately before the appointed day in, or in connection with the affairs of, the Presidency of Bombay may be required to serve in, or in connection with the affairs of, either Bombay or Sind, subject, however, to any conditions for their protection prescribed by the Governor-General in Council, either generally or in relation to any particular persons or classes of persons.

22. Any appointment made under Part III of this Order of a person to be Governor of Sind shall as from the commencement of Part III of the Act have effect as if it were an appointment made under section forty-eight thereof.

23. Until other provision is made under the Act, any officer who immediately before the commencement of Part III of the Act was exercising any functions by virtue of anything done under Part III of this Order shall continue to exercise those functions.

24. The provisions of this Order shall not be deemed to have effected any change in the territorial application of any enactment, notwithstanding that that enactment is expressed to apply or extend to the territories for the time being under a particular administration:

Provided that nothing in this paragraph shall be construed as affecting the power to make regulations for Sind under section seventy-one of the Government of India Act as applied by this Order.

25. For the purpose of facilitating the application in relation to Sind of any enactment, notification, order, scheme, rule, form or byelaw passed, issued or made before the appointed day, any court may, subject to any express provision of this Order, construe the enactment, notification, order, scheme, rule, form or byelaw with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before the court.

M. P. A. Hankey.

Para. 18.

FIRST SCHEDULE.

PROVISIONS AS TO LEGISLATIVE COUNCIL OF BOMBAY.

1. In this Schedule the expression "the Council" means the Legislative Council of Bombay.

2.—(1) On the appointed day the constituencies mentioned in sub-paragraph (2) of this paragraph shall cease to be constituencies returning members to sit in the Council, the persons who immediately before that date are members for the said constituencies shall vacate their seats and the number of elected members of the Council and the total number of members thereof shall be reduced to sixty-seven and ninety-five respectively.

(2) The constituencies referred to in the preceding sub-paragraph are the following, namely: Karachi City, Eastern Sind, Western Sind, Karachi City (Muhammadan), Hyderabad District (Muhammadan), Karachi District (Muhammadan), Larkana District (Muhammadan), Sukkar District (Muhammadan), Thar and Parkar (Muhammadan), Nawabshah District (Muhammadan), Upper Sind Frontier District (Muhammadan), Jagirdars and Zamindars (Sind), Karachi Chamber of Commerce.

3.—(1) For the purpose of the Rules with respect to the qualifications of electors, and eligibility for election, for the Presidency (European) constituency and the Bombay University constituency residence in Sind shall, as from the appointed day, cease to be regarded as residence in the Presidency, and, if a by-election falls to be held for either of the said constituencies between the appointed day and the completion of the next general revision of the electoral roll for that constituency, a person who is included in that roll by virtue of residence in Sind shall not be entitled to vote or be eligible for election.

(2) A person who immediately before the appointed day is a member for either of the said constituencies shall continue to represent that constituency as if he had been elected to represent that constituency as altered by the preceding sub-paragraph, and, notwithstanding that his residence may be in Sind, shall, until the next dissolution of the Council, be deemed to have been, and to be, duly qualified to be so elected and to be a member for the constituency as so altered.

SECOND SCHEDULE.

Para. 20.

PROVISIONS AS TO APPORTIONMENT.

1. Subject to the provisions of this Schedule relating to certain unissued stores, all land, works, forests, buildings and contents of buildings shall remain the property of, or, as the case may be, pass to, the Province in which they are situated.

2. Arrears of taxes shall belong to the Province in which the taxed property is situate or the taxed transactions took place.

3. Of the outstanding Bombay Irrigation Debt incurred before the first day of April, nineteen hundred and twenty-one, twenty-seven million, four hundred and ninety-six thousand, three hundred and eighty-four rupees shall be the debt of Sind and the remainder shall be the debt of Bombay.

4. Of the outstanding debt on account of the Lloyd Barrage and Canals system—

(*a*) neither Province shall be responsible for the amount outstanding on account of the Nasirabad section;

(*b*) seventy-three thousand six hundred and eighty-seven rupees shall be deemed to be outstanding Irrigation Debt for the purposes of paragraph three and shall be dealt with thereunder; and

(*c*) the remainder of the debt shall be the debt of Sind alone.

5. The outstanding Bombay debt on account of the Bombay Development Scheme shall be the debt of Bombay alone.

6. Subject as aforesaid, as respects the outstanding Bombay debt incurred since the end of March, nineteen hundred and twenty-one, on account of works classified as (1) productive irrigation works, (2) other productive works, (3) unproductive irrigation works, (4) other unproductive works—

(*a*) in so far as the requisite information is forthcoming, the debt shall be allocated year by year and class by class between the two Provinces according to the location of the works on which the money borrowed was spent;

(*b*) the remainder of the debt shall be allocated year by year and class by class between the two Provinces in proportion to the gross amounts spent since the end of March, nineteen hundred and twenty-one, on works or parts of works in the respective Provinces, not being works or parts of works otherwise taken into account under this and the two last preceding paragraphs:

Provided that for the purposes of sub-paragraph (*b*) of this paragraph no account shall be taken of works or parts of works the cost of which is known to have been wholly defrayed otherwise than from borrowed money.

7. Any sums due on or after the appointed day in respect of loans made before the appointed day from the Provincial Loans Account shall belong to the Province in which the persons from whom the sums are due were resident on the appointed day and each Province shall be liable for so much of the debt on account of the Provincial Loan Account as is equal to the total of the capital sums repayable to that Province under this paragraph.

8. Of the Famine Relief Fund an amount equal to fifteen per cent. of the difference between the gross balance of the Fund and the amount due to the Fund from the Provincial Loan Account shall be paid to the Sind Famine Relief Fund and the remainder shall continue in the Bombay Famine Relief Fund.

9. So much of the Road Development Fund as together with the amount spent in Sind before the appointed day from that Fund, excluding amounts spent in the financial year 1931–32 on the maintenance of roads, will amount to one quarter of the gross receipts of that Fund since its institution, shall belong to Sind and the remainder shall belong to Bombay.

10. Borrowed money unexpended on the appointed day together with the corresponding liability shall be divided between the two Provinces in such manner as may be mutually convenient to them.

11. Reserve funds shall be divided between the two Provinces according as the purposes of the funds are purposes of the one Province or the other.

12. If and in so far as any item in suspense is ultimately found to affect any capital head referred to in the foregoing paragraphs of this Schedule, it shall be dealt with in accordance with the provisions of the relevant paragraph.

13. Any substantial quantities of unissued stores of any class shall be divided between the two Provinces in proportion to the indents for stores of that class made in the three years immediately preceding the appointed day for the areas comprised in those Provinces respectively.

14.—(1) Subject to the adjustment mentioned in sub-paragraph (3) of this paragraph, liabilities in respect of pensions granted before the appointed day shall, in the case of pensions which immediately before the appointed day were being paid from treasuries in Sind, be liabilities of Sind, and in other cases be liabilities of Bombay.

(2) Subject to the said adjustment, liabilities in respect of pensions granted after the appointed day shall be liabilities of the Province granting the pension.

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(3) There shall be computed in each month after the appointed day the total liability of each Province—

(*a*) in respect of pensions granted before the appointed day;

(*b*) in respect of so much of any pensions granted after the appointed day as is attributable to service before the appointed day,

and Sind shall pay to Bombay monthly the amount by which the total liability of Bombay for that month exceeds eighty-five per cent. of the total liability of both Provinces for that month.

(4) Any question as to how much of any pension is attributable to service before the appointed day shall be determined by comparing the length of the service of the officer in question before the appointed day with the length of his service after the appointed day.

(5) Nothing in this paragraph shall be taken as prohibiting the payment from treasuries in the one Province of pensions which are the liability of the other, and if any pensions are so paid the necessary adjustments shall be made between the two Provinces.

15.—(1) The benefit or burden of any assets or debts not dealt with in the foregoing provisions of this Schedule shall be attributed, as to eighty-five per cent. thereof to Bombay, and as to fifteen per cent. thereof to Sind.

(2) The provisions of this paragraph shall apply to any debt attributable to pensions or the commutation of pensions notwithstanding that that debt has been debited to the capital head "Construction of irrigation, navigation, embankment and drainage works," and the provisions of this Schedule relating to debts on account of works shall have effect accordingly.

16.—(1) The provisions of this paragraph shall, for the twenty-five years commencing on the appointed day, have effect with respect to Government hospitals and educational institutions in Bombay (including any therapeutic institutes, Borstal institutions and reformatory schools) which before the appointed day served Sind as well as the rest of Bombay.

(2) There shall be reserved for Sind either—

(*a*) the specific number of places reserved for residents in Sind immediately before the appointed day; or,

(*b*) if a specific number of places was not so reserved, a number of places as near as may be equal to the average number of places filled by residents in Sind during the three years immediately preceding the appointed day.

(3) The charge to be made for admittance to the places aforesaid shall be calculated on a cost basis, account being taken of the pensions which will ultimately be payable to and in respect of the staff and of debt outstanding on, or incurred after, the appointed day, but no account being otherwise taken of capital expenditure incurred before the appointed day:

Provided that the charge made for admittance to the said places shall in no case exceed that made in respect of other persons resident outside Bombay.

(4) If for any five consecutive years after the appointed day Sind fails to fill any of the places so reserved, the right of Sind to that place shall lapse.

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